

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TRUSTEES OF THE ELECTRICAL WORKERS
HEALTH AND WELFARE TRUST; *et al.*,)
Plaintiffs,)
vs.)
MALOY CONSTRUCTION, INC.,)
Defendant.)

Case No. 2:09-cv-00026-RCJ-GWF

FINDINGS & RECOMMENDATION AND ORDER

This matter is before the Court on the Order to Show Cause (#10), filed March 17, 2009, wherein this Court ordered Defendant Maloy Construction, Inc. to show cause, in writing, no later than March 26, 2009, why sanctions should not be imposed for their failure to comply with this Court's prior

Accordingly,

RECOMMENDATION

IT IS RECOMMENDED by the undersigned United States Magistrate Judge that the Answer of Defendant Maloy Construction, Inc. should be **stricken** and its default entered based on Defendant's failure to comply with this Court's Order to obtain counsel.

ORDER

IT IS HEREBY ORDERED that the Clerk of the Court shall mail a copy of this Findings & Recommendation and Order to Defendant Maloy Construction, Inc., c/o Rebecca A. Maloy, at 7820 Coors Boulevard SW, Albuquerque, NM 87121.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the

1 courts of appeal may determine that an appeal has been waived due to the failure to file objections
2 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
3 failure to file objections within the specified time and (2) failure to properly address and brief the
4 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
5 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
6 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

7 DATED this 30th day of March, 2009.

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10 GEORGE FOLEY, JR.
United States Magistrate Judge

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